

District Judge Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PATRICE PERRY, an individual,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

No. C06-1102 MJP

**MOTION FOR RELIEF  
FROM MEDIATION**

(Note on Motion Calendar for  
Consideration on **August 31, 2007**)

**INTRODUCTION**

Defendant United States, by and through its attorney, Jeffrey C. Sullivan, United States Attorney, and Priscilla T. Chan, Assistant United States Attorney for the Western District of Washington, hereby moves this Court, for relief from mediation on the grounds that mediation in this case would not be practicable and would not result in the settlement of this case.

**ARGUMENT**

The plaintiff in this action seeks to hold the United States vicariously liable under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-2680 ("FTCA"), for the negligent conduct of United States Postal Service ("USPS") employee, George Wellman, in allegedly causing a collision between his USPS truck and a Ford Taurus operated by Plaintiff Patrice Perry. The Government has carefully reviewed this case and believes that the claim is barred by the FTCA's two-year statute of limitations under 28 U.S.C. § 2401(b). A motion to dismiss the plaintiff's claim against the United States has been

1 filed and is presently pending before the Court (Dkt. #32). For this and other reasons  
2 which are unique to this lawsuit, the Government has determined that it is not prepared to  
3 offer anything by way of settlement in this case.

4 The United States has been, and continues to be, a great proponent and an active  
5 participant in the CR 39.1 program in this District. Nevertheless, there are cases in which  
6 it is not prepared to make an offer of settlement, and it seeks in advance to be relieved of  
7 its obligation to mediate under CR 39.1 so that the parties can avoid a waste of time and  
8 expense associated with such a mediation. This is such a case.

9 Accordingly, the United States respectfully requests that it be relieved of its  
10 obligation to participate in a mediation of this case, and it so moves.

### 11 CONCLUSION

12 For the foregoing reasons, the Defendant United States respectfully requests the  
13 Court to grant the Government relief from mediation.

### 14 PROPOSED ORDER

15 A proposed order is attached for the Court's review.

16  
17 Dated this 13th day of August, 2007.

18  
19 Respectfully submitted,

20 JEFFREY C. SULLIVAN  
United States Attorney

21 BRIAN C. KIPNIS  
22 Assistant United States Attorney  
Chief, Civil Division

23 /s/ Priscilla T. Chan  
24 PRISCILLA T. CHAN  
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25 Attorney for United States  
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28 Attorneys for Defendant United States of America

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s).

[jim@johansonlaw.com](mailto:jim@johansonlaw.com)

I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via telefax.

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DATED this 13th day of August, 2007.

/s/ Priscilla T. Chan  
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